

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

**FILED**

OCT 05 2018

Clerk, U.S. District Court  
District Of Montana  
Helena

ELLEN MARTEN, as Guardian and  
Conservator of Glen Marten,

Plaintiff,

vs.

GENE HAIRE, STATE OF MONTANA,  
and DOES 1-10,

Defendants.

CV 17-31-H-CCL

ORDER

Defendant State of Montana moved yesterday afternoon, October 4, 2018, to quash a subpoena served on September 20, 2018, on the Division of Criminal Investigation for the Montana Department of Justice, an agency of the State of Montana. The date and time set for responding to the subpoena is today at 10:00 a.m. The State of Montana claims that the subpoena is an improper attempt to circumvent Rule 34 and to require disclosure of privileged or otherwise protected material.

On August 22, 2018, the Court issued a second amended scheduling order, in response to a joint motion from the parties. (Doc. 39). That order extended the

discovery deadline until October 31, 2018, and extended the deadline for filing a joint status report regarding discovery until August 24, 2018. It is not clear why Plaintiff did not reference her plans to seek additional discovery from the State in the joint status report, why she waited until September 20, 2018, to serve the subpoena, or why the State waited until yesterday to file its motion to quash.

Trial is currently set in this matter for May 13, 2019, and the Court intends to maintain that date and to give both parties the opportunity to argue this issue. Accordingly,

IT IS HEREBY ORDERED that the subpoena issued on September 20 is STAYED pending resolution of the State's motion to quash. Plaintiff shall file her response to the motion to quash on or before October 18, 2018. Defendant State of Montana shall file its reply, if any, on or before October 26, 2018. The Court will hear oral argument on the motion on Tuesday, October 30, 2018, at 10:00 a.m. in Courtroom II of the United States Courthouse in Helena, Montana.

Dated this 5<sup>th</sup> day of October, 2018. 9:22 A.M.

  
CHARLES C. LOVELL  
SENIOR UNITED STATES DISTRICT JUDGE